

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

\* \* \*

DANIEL DEAI BAILARD

Case No. 3:22-CV-00116-ABT-CLB

**Plaintiff.**

## **REPORT AND RECOMMENDATION OF U.S. MAGISTRATE JUDGE<sup>1</sup>**

v.

STATE OF NEVADA, et al.,

## Defendants.

Before the Court is Plaintiff's failure to comply with Local Rule ("LR") IA 3-1 requiring him to change his address.

On March 2, 2022 and March 3, 2022, several of the filings in this case were returned to the Court as “undeliverable” to Plaintiff at the address provided when this case was filed. (See ECF Nos. 2, 4, 5). A note was handwritten on the returned filings stating that Plaintiff was discharged from custody on February 25, 2022. (*Id.*) Thereafter, the Court issued an order requiring Plaintiff to update his address by April 15, 2022. (ECF No. 6). Plaintiff was cautioned that his failure to do so would result in a dismissal of this action. (*Id.*) That order was also returned to the Court as undeliverable. (ECF No. 7). To date, Plaintiff has not filed a notice of change of address with the Court. In fact, Plaintiff has not filed a document with the Court since he initiated this action on March 2, 2022. (ECF No. 1).

LR IA 3-1 provides that the failure to "immediately file with the Court written notification of any change of address . . . may result in dismissal of the action . . ." Prior to dismissal for failure to follow local rules, the Court must consider "(1) the public's interest in expeditious resolution of litigation; (2) the Court's need to manage its docket;

<sup>1</sup> This Report and Recommendation is made to the Honorable Anne R. Traum United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and LR IB 1-4.

1 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of  
2 cases on their merits; and (5) the availability of less drastic sanctions." *Carey v. King*,  
3 856 F.2d 1439, 1440 (9th Cir. 1988) (quoting *Henderson v. Duncan*, 779 F.2d 1421, 1423  
4 (9th Cir. 1986)). This litigation cannot proceed or be decided on the merits if the Court  
5 and Defendants cannot contact Plaintiff, nor should the Court or Defendants be required  
6 to continue to try to resolve the case without the Plaintiff's participation. The Court  
7 finds that all five factors favor dismissal of this case.

8 Based on the foregoing and for good cause appearing, the Court recommends this  
9 case be dismissed based upon Plaintiff's failure to notify the Court of his change of  
10 address pursuant to LR IA 3-1.

11 The parties are advised:

12 1. Pursuant to 28 U.S.C. § 636(b)(1)(c) and Rule IB 3-2 of the Local Rules of  
13 Practice, the parties may file specific written objections to this Report and  
14 Recommendation within fourteen days of receipt. These objections should be entitled  
15 "Objections to Magistrate Judge's Report and Recommendation" and should be  
16 accompanied by points and authorities for consideration by the District Court.

17 2. This Report and Recommendation is not an appealable order and any notice  
18 of appeal pursuant to Fed. R. App. P. 4(a)(1) should not be filed until entry of the District  
19 Court's judgment.

#### 20 RECOMMENDATION

21 IT IS THEREFORE RECOMMENDED that this action be **DISMISSED** for Plaintiff's  
22 failure to comply with LR IA 3-1.

23 **DATED:** April 20, 2022.

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26 **UNITED STATES MAGISTRATE JUDGE**  
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